

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	CAUSE NO. EP-07-CR-0249-DB
)	
ROBERT THOMAS CALDWELL)	
)	

JOINT AGREED MOTION TO AMEND THE INDICTMENT

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now the United States of America, by and through the United States Attorney for the Western District of Texas, and the Defendant, by and through his Attorney of Record, Louis E. Lopez, and together file this Joint Agreed Motion to Amend the Indictment, and in support thereof would show the Court as follows:

I.

The Defendant and two others were indicated on February 7, 2007 in a three count indictment. This Defendant is named in Counts I and II respectively. The case is currently set for trial on June 18, 2007.

II.

The Government has discovered a typographical error in a particular portion of Counts I and II of the indictment and has requested the Defendant agree to an amendment prior to trial. In the body of Counts I and II the government incorrectly listed the National Stock Number for the Silver Oxide Reserve Batteries with an incorrect leading four digit identifier. The Indictment lists 1420 as the leading four digits, and instead it should read 6135. The rest of the description and nine digits listed are correct.

III.

The Defendant has agreed to spare the government the expense of presenting a Superseding Indictment to a grand jury prior to the commencement of trial. The typographical error is not on an

essential element of the crime and the parties are in agreement that the defendant has not suffered any prejudice as a result of the typographical error. The parties agree that the Indictment does state the elements of the offense intended to be charged with sufficient particularity to enable the Defendant to prepare his defense.

IV.

Therefore, the parties respectfully agree and request the Court Amend the Indictment pending in this cause to be amended to remove each and every reference to National Stock Number (NSN) 1420 and replace it with 6135 in both Counts I and II of the Indictment now pending in this matter.

VI.

This motion is not for purposes of delay, but so that justice can be done.

WHEREFORE, premises considered, the Defendant and the United States prays that this Joint Agreed Motion to Amend the Indictment be in all things granted, and that the cause remain set for trial on June 18, 2007.

Respectfully submitted,

JOHNNY SUTTON
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By: /s/
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V.

ROBERT THOMAS CALDWELL

CAUSE NO. EP-07-CR-0249-DB

ORDER ON JOINT AGREED MOTION TO AMEND THE INDICTMENT

On this date, came on to be considered the Joint Agreed Motion to Amend the Indictment in the above entitled and numbered cause, and the Court, having considered the same is of the opinion that the Joint Agreed Motion to Amend the Indictment should be in all things **GRANTED**.

It is therefore **ORDERED** that in Counts I and II all references to National Stock Number (NSN) 1420-00-484-8556 shall be Amended to correct the typographical error and should now read 6135-00-484-8556.

SIGNED and ENTERED this the _____ day of June, 2007.

UNITED STATES DISTRICT JUDGE